



October 4, 1999

Ms. Monica L. Strickland
Assistant City Attorney
City Of Midland
300 N. Loraine, Rm. 320
P.O. Box 1152
Midland, Texas 79702-1152

OR99-2810

Dear Ms. Strickland:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129040.

The City of Midland Police Department (the "department") received a request for an amended accident report pertaining to an automobile accident which occurred on April 1, 1999, at the 4500 block of Lamesa Road in Midland, Texas. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.130 and 552.108(a)(2) of the Government Code. You also cite to Open Records Letter No. 99-1780 (1999) ("OR99-1780") issued by this office. We have considered the exceptions you claim and reviewed the submitted information.

The Seventy-fifth Legislature repealed V.T.C.S. article 6701d and amended section 550.065 of the Transportation Code concerning the disclosure of accident report information. Act of May 29, 1997, 75th Leg., R.S.ch.1187, 1997 Tex. Gen. Laws 4575, 4582-4583 (to be codified at Transp. Code § 550.065). However, a Travis County district court has issued a temporary injunction enjoining the enforcement of the amendment to section 550.065 of the Transportation Code. *Texas Daily Newspaper Ass'n, v. Morales*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997) (second amended agreed temporary injunction). A temporary injunction preserves the status quo until the final hearing of a case on its merits. *Janus Films, Inc. v. City of Fort Worth*, 358 S.W.2d 589 (1962). The supreme court has defined the status quo as "the last, actual peaceable, non-contested status that preceded the pending controversy." *Texas v. Southwestern Bell Tel. Co.* 526 S.W.2d 526, 528 (Tex.

1975). The status quo of accident report information prior to the enactment of S.B. 1069 is governed by section 47 of article 6701d, V.T.C.S.¹

Section 47(b)(1) provides in pertinent part that:

The Department or a law enforcement agency employing a peace officer who made an accident report *is required to release a copy of the report* on request to:

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident

V.T.C.S. art. 6701d, § 47(b)(1) (emphasis added). Under this provision, a law enforcement agency “is required to release” a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *Id.* In the situation at hand, unlike the request which resulted in the issuance of OR99-1780, the requestor has provided the department with the date of the accident, the names of persons involved in the accident, as well as the location of the accident. Thus, you are required to release the accident report, which you submitted as Exhibit B, under section 47(b)(1)(D) of article 6701d, V.T.C.S.

As section 47(b)(1)(D) of article 6701d, V.T.C.S. is dispositive, we do not address your other claims. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

¹ Although the Seventy-fourth Legislature repealed and codified article 6701d as part of the Transportation Code, the legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., R.S., ch. 165, §§ 24, 25 1995 Tex. Gen. Laws 1025, 1870-71. Furthermore, the Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d, amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Gen. Laws 4413, 4414. Because the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code, the amendment is preserved and given effect as part of the code provision. Gov’t Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S. is the existing law regarding the availability of accident report information, and may be found following section 550.065 of the Transportation Code. *See also* Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Gen. Laws 4413, 4414.

under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguía". The signature is fluid and cursive, with the first name "Rose" being more prominent.

Rose-Michel Munguía
Assistant Attorney General
Open Records Division

RMM/nc

Ref: ID # 129040

Encl: Submitted documents

cc: Mr. Robert W. Taylor
Cunningham Lindsey U.S., Inc.
P.O. Box 2069
Odessa, Texas 79760
(w/o enclosures)